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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,693	03/11/2004	Eddie N. Stanton	CLPS-18789	6180
1224 7590 08/30/2010 BOOTH ALBANESI SCHROEDER LLC 1601 ELM STREET SUITE 1950 DALLAS, TX 75201-4744				
EXAMINER				
LEE, GILBERT Y				
ART UNIT		PAPER NUMBER		
3676				
NOTIFICATION DATE		DELIVERY MODE		
08/30/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

firm@ipoftexas.com  
csleeper@ipoftexas.com

### Office Action Summary

**Application No.**

10/798,693

**Applicant(s)**

STANTON ET AL.

**Examiner**

GILBERT Y. LEE

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 5/24/10.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-13,15-17,65,66,76,78-82,130,132 and 134-139 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-13,15-17,65,66,76,78-82,130,132 and 134-139 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-646)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/24/10 has been entered.
2. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Specification***

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-13, 15-17, 65, 66, 76, 78-82, 130, 132, and 134-139 are rejected under 35 U.S.C. 102(b) as being anticipated by Covert et al. (US Patent No. 5,263,682).

Regarding claim 1, the Covert et al. reference discloses a packing cartridge (Fig. 3) for use in a packing bore (Fig. 3), wherein the packing bore has a cylindrical interior wall and a seat (Fig. 3), the packing cartridge comprising: a generally cylindrical sleeve (including the element that has interior wall 78 and the element 76); a first abutment ring (84); a second abutment ring (52); telescoping structures (Fig. 3); and a retaining ring (90). Note that the telescoping structures include the element having interior wall 78 and the element 66, in which the element having interior wall 78 is capable of telescoping and allowing for squeezing of the first abutment ring and the second abutment ring co-axially closer to one another. Also note that the packing cartridge of

the Covert et al. reference is capable of being used in the environment as claimed in claim 1.

Regarding claims 3 and 76, the Covert et al. reference discloses the telescoping structures having overlapping travel (Col. 4, Lines 23-25). Note that the packing could be crushed if element 76 is over tightened.

Regarding claims 4 and 136, the Covert et al. reference discloses a spring (74) between the first abutment ring (84) and the second abutment ring (52).

Regarding claims 5 and 78, the Covert et al. reference discloses the telescoping structures/first and second sleeve portions having overlapping travel (Col. 4, Lines 23-25).

Regarding claims 6 and 138, the Covert et al. reference discloses a first sleeve portion (76) and a second sleeve portion (element having interior wall 78), and wherein the telescoping structures are a part of the first and second sleeve portions (Fig. 3).

Regarding claim 7, the Covert et al. reference discloses the first sleeve portion is positioned in at least a portion of the packing bore (Fig. 3) and the second sleeve portion having a portion telescopically positioned in at least a portion of the first sleeve (Fig. 3).

Regarding claim 8, the Covert et al. reference discloses the first abutment ring (84) being connected to the first sleeve portion (76) and the second abutment ring (52) being connected to the second sleeve portion (element having interior wall 78).

Regarding claims 9, 12, and 82, the Covert et al. reference discloses the first abutment ring (84) being integrally formed to the first sleeve portion (76) and the second

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abutment ring (52) being integrally formed to the second sleeve portion (element having interior wall 78).

Regarding claims 10, 66, and 139, the Covert et al. reference discloses a spacer (100) which covers the overlapping travel of the telescoping structures (Fig. 3) wherein the spacer ring is positioned to help prevent seepage of fluid into any clearances between the first sleeve portion and the second sleeve portion (Fig. 3).

Regarding claim 11, the Covert et al. reference discloses the telescoping structures (Fig. 3). Note that the telescoping structures include the element having interior wall 78 and the element 66, in which the element having interior wall 78 is capable of telescoping.

Regarding claims 13 and 130, the Covert et al. reference discloses the retaining ring (90) comprising a resilient ring (Col. 4, Lines 33-39) **adapted to** be positioned in a groove (88).

Regarding claims 15 and 79, the Covert et al. reference discloses packing (including upper element 102 and bottom element 102) between the first and second abutment rings (Fig. 3).

Regarding claims 16 and 80, the Covert et al. reference discloses the packing further comprising a plurality packing elements (including upper element 102 and bottom element 102).

Regarding claims 17 and 81, the Covert et al. reference discloses a packing spacer (middle element 102) positioned between the plurality of packing elements (Fig. 3).

Regarding claim 65, the Covert et al. reference discloses a packing cartridge (Fig. 3) for use in a packing bore (Fig. 3), wherein the packing bore has a cylindrical interior wall and a seat (Fig. 3), the packing cartridge comprising: a first element (76) comprising: a first sleeve portion (Fig. 3); and a first abutment ring (84); and a second element (element having interior wall 78) comprising: a second sleeve portion (Fig. 3); and a second abutment ring (52); and a means for axially retaining the first and second sleeve portions together (90); wherein the first sleeve portion and the second sleeve portion and the means for axially retaining are operatively positioned between the first abutment ring and the second abutment ring to allow for squeezing of the first abutment ring and second abutment ring co-axially closer to one another. Note that element 76 can be tightened (Col. 4, Lines 25-30). Also note that the packing cartridge of the Covert et al. reference is capable of being used in the environment as claimed in claim 65.

Regarding claim 132, the Covert et al. reference discloses the telescoping structure/means for telescoping and the retaining ring/means for axially retaining being capable of allowing a packing (e.g. 94) to be held in a pres-assembled but relaxed condition.

Regarding claim 134, the Covert et al. reference discloses a means for axially retaining the first and second sleeve portions together (e.g. threads); wherein the first and second sleeve portions and the means for axially retaining are capable of allowing a packing (e.g. 94) to be held in a pres-assembled but relaxed condition.

Regarding claim 135, the Covert et al. reference discloses a packing cartridge (Fig. 3) for use in a packing bore (Fig. 3), wherein the packing bore has a cylindrical interior wall and a seat (Fig. 3), the packing cartridge comprising: a generally cylindrical sleeve (including the element that has interior wall 78 and the element 76); a first abutment ring (84); a second abutment ring (52); packing (e.g. 94) positioned between the first abutment ring and the second abutment ring (Fig. 3); telescoping structures (Fig. 3); and a retaining ring (90); wherein the telescoping structures and the retaining ring are **capable of** allowing the packing to be held in a pres-assembled but relaxed condition. Note that the telescoping structures include the element having interior wall 78 and the element 66, in which the element having interior wall 78 is **capable of** telescoping and allowing for squeezing of the first abutment ring and the second abutment ring co-axially closer to one another. Also note that the packing cartridge of the Covert et al. reference is **capable of** being used in the environment as claimed in claim 1.

Regarding claim 137, the Covert et al. reference discloses the telescoping structures having at least sufficient overlapping travel to help maintain the first abutment ring and the second abutment ring in substantial co-axial alignment (Fig. 3) while the spring is anywhere between a substantially relaxed condition and a substantially compressed condition (e.g. Col. 4, Lines 24-39).



***Response to Arguments***

5. Applicant's arguments filed 9/10/09 have been fully considered but they are not persuasive.

In response to applicant's argument that the Covert et al. reference fails to disclose a packing cartridge for use in a packing pore of a plunger-type pump and the operation of certain elements, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Furthermore, it is obvious that the packing cartridge of the Covert et al. reference sits in a packing bore (i.e. if it was not sitting in a packing bore then it would just be a free standing object).

In response to applicant's arguments, the recitations "a packing bore" and "a removable gland" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hiraio*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GILBERT Y. LEE whose telephone number is (571)272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shane Bomar can be reached on 571-272-7026. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shane Bomar/  
Supervisory Patent Examiner, Art  
Unit 3676

/G. Y. L./  
Examiner, Art Unit 3676